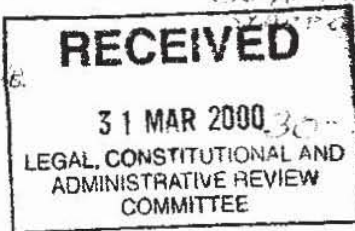


SUBMISSION
IN SUPPORT OF THE
BY MURILL V. DEKKER

30 MAR 2000 3:00 PM
SUBMISSION NO 116



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(ADDENDUM)

To: LEGAL, CONSTITUTIONAL AND ADMINISTRATIVE
REVIEW COMMITTEE
PARLIAMENT HOUSE
GEORGE STREET
BRISBANE QLD 4000

Dear Committee,

I am a person who has had to use Freedom of Information.

I am disappointed with FOI because:

1. of its failure to give full access to relevant documents,
2. and because too frequently, the inaccuracies are not corrected.

I shall list the following issues:

- A. LACK OF A VENUE OF REVIEW WHICH WORKS IN PRACTICE.
- B. LACK OF ACCESS TO CERTAIN DOCUMENTS
- C. FAILURE OF FOI TO CORRECT INACCURACIES
- D. LACK OF CHOICE ABOUT INTERNAL REVIEW

1. SPECIAL NEEDS? SIMPLIFICATION OF FREEDOM OF INFORMATION IN RESPECT TO OBTAINING AMENDMENTS TO INACCURACIES etc
2. SEPARATION OF POWERS AND ROLES OF INFORMATION COMMISSIONER AND OMBUDSMAN.

A. LACK OF A VENUE OF REVIEW

A. THE PROBLEM: NO AVENUE OF REVIEW FROM THE OFFICE OF THE INFORMATION COMMISSIONER, WHICH AS A PUBLIC BODY, SHOULD BE SUBJECT TO REVIEW BY THE OMBUDSMAN, (PARLIAMENTARY COMMISSIONER FOR ADMINISTRATIVE INVESTIGATION)

HOWEVER
- WHEN WE TRY TO COMPLAIN TO THE OMBUDSMAN WE RECEIVE LETTERS SAYING, IN EFFECT THAT BECAUSE THE OMBUDSMAN IS ALSO THE SAME PERSON AS THE INFORMATION COMMISSIONER, HE, THE OMBUDSMAN CANNOT SIT IN JUDGEMENT ON HIMSELF.

- WHILE THE GOVERNMENT EXPRESSED CONFIDENCE THAT THE SAME PERSON COULD PERFORM BOTH ROLES - FITZGERALD WOULD NOT AGREE. I have just to separate the 2 powers & roles.
[V.B.] THE DISAPPOINTED PUBLIC WHO CANNOT GET AMENDMENTS MADE TO THE INACCURACIES etc IN THEIR FILES, AND HAVE NO AVENUE OF REVIEW FROM THE OFFICE OF THE INFORMATION COMMISSIONER, SO HAVE NO CONFIDENCE IN A SYSTEM ALLOWING THE SAME PERSON TO PLAY BOTH ROLES, WHICH NEGATES AN AVENUE OF REVIEW.

THIS CONCEPT WAS DEBATED IN PARLIAMENT IN 1991 AND LATER IMPLEMENTED. ATTORNEY-GENERAL, THE HON. D.M. WELLS, SAID IN THE SECOND READING OF HIS SPEECH, WHEN HE PRESENTED THE BILL:

"The Government has decided that the Parliamentary Commissioner for Administrative Investigations is to perform the role and functions of the Information Commissioner. The Government is confident that the Parliamentary Commissioner can efficiently and effectively perform the external review (of FOI) role under the Bill. In that capacity, the Parliamentary Commissioner will have powers additional to those which normally apply to that office." (QUEENSLAND LEGISLATIVE ASSEMBLY 1991 DEBATES, Vol 2 21385C).

SUBMISSION RECOMMENDATION: THAT THE ROLES OF OMBUDSMAN AND INFORMATION COMMISSIONER BE PERFORMED BY SEPARATED INDIVIDUALS, AND/OR A MORE EASY AVENUE OF REVIEW FROM DECISIONS OF THE OFFICE OF INFORMATION COMMISSIONER

B. LACK OF ACCESS TO CERTAIN DOCUMENTS

THE PROBLEM:

LEGAL PROFESSIONAL PRIVILEGE ^{BEING} USED TO DENY ACCESS TO DOCUMENTS NEED TO CLEAR A NAME. THIS IS A REVERSAL OF EVERYTHING THAT FREEDOM OF INFORMATION WAS SUPPOSED TO GIVE CITIZENS.

2. RECOMMENDATION: FREEDOM OF INFORMATION SAYS WHEN DOCUMENTS ARE REQUIRED IN ORDER TO CLEAR A PERSON'S NAME LEGAL PROFESSIONAL PRIVILEGE DOES NOT APPLY. THEREFORE THERE NEEDS TO BE AN AVENUE OF REVIEW, INDEPENDENT OF INFORMATION COMMISSION.

C. FAILURE OF FOI TO AMEND INACCURACIES

THE PROBLEM:

TOO MANY ARBITRARY UNFAIR RESTRICTIONS AND PRECEDENTS ARE BLOCKING CITIZEN'S RIGHTS TO HAVE INACCURACIES ET AFFECTING THEM, AMENDED.

SUCH RESTRICTIONS TURN THE "AVENUE" OF FOI TO HAVE INACCURACIES AMENDED, INTO A MASQUERADE.

AN AVENUE WHICH THE CITIZEN IS ALLOWED TO GO DOWN, BUT WHO WILL FIND AT THE END THAT THERE IS NO SUBSTANTIVE OUTCOME, SO FOI BECOMES NON-VIABLE IN THESE TERMS.

3. RECOMMENDATION SUBMISSION:

REMOVE ALL QUALIFICATIONS BLOCKING AMENDMENTS OF INACCURACIES, INCOMPLETE DOCUMENTS, ET.

ABOLISH QUALIFICATIONS THAT THE INACCURACIES MUST PERSONALLY AFFECT THE APPLICANT, OR THEIR RELATIONSHIPS. ALLOW INACCURACIES ET WHICH RELATE TO THE PERSON TO BE AMENDED, BECAUSE THE PERSON WANTS THEM AMENDED.

OTHERWISE PARLIAMENT SHOULD GIVE US AN AVENUE, OR COURT WHERE WE CAN, IN FACT, GET INACCURACIES

AMENDED. SIMPLIFY FREEDOM OF INFORMATION AND AMENDMENTS SO MORE AMENDMENTS CAN BE ALLOWED IN PRACTICE.

④ LACK OF CHOICE ABOUT INTERNAL REVIEW

THE PROBLEM:

LACK OF A CHOICE ABOUT ASKING FOR INTERNAL REVIEW. IT IS AN IMPOSITION AND HARDSHIP FOR SOME PEOPLE TO BE FORCED TO REQUEST THIS.

THEY MAY ALREADY HAVE TO DEAL WITH THOUSANDS OF DOCUMENTS AND MANY INACCURACIES, SO THIS IS AN UNFAIR ADDED BURDEN.

1. RECOMMENDATION SUBMISSION: LEGISLATION TO MAKE IT A CHOICE FOR THE APPLICANT WHETHER TO SEEK INTERNAL REVIEW OR NOT.

INSTITUTIONS SHOULD STILL HAVE THE CHOICE TO USE INTERNAL REVIEW BUT WITHOUT INVOLVING THE APPLICANT, UNLESS